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Remarks

Claims 88, 90, 92-123, 125-128, 131, and 149 were pending in the application. No claims have been added or cancelled. Claims 101 and 102 have been amended for consistency. Thus claims 88, 90, 92-123, 125-128, 131, and 149 are subject to continued examination.

Obviousness Rejections

Claims 88, 90, 92-123, 125-128, 131, and 149 were rejected under 35 U.S.C. §103(a) as being unpatentable over Higgins (US 4,552,857) in view of de Simone et al. (US 5,610,207). Continued rejection on these grounds is respectfully traversed and reconsideration is requested.

In order to establish a *prima facie* case of obviousness there must be some suggestion or motivation that would lead to the claimed invention. The suggestion or motivation may derive from the references themselves or from the knowledge generally available to those of skill in the art. In addition, all the claim limitations must be taught or suggested by the prior art (MPEP § 2142). Applicants respectfully submit that these standards are not met with regard to the claims as now presented.

The Office Action proposes that De Simone '207 et al. teaches a rebond polyurethane foam product which is suited for a carpet backing. The Office Action

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relies on the abstract and col. 2, lines 34-45 for this teaching (section 6 of Office Action). Applicants respectfully submit that the abstract merely describes the process used to form the rebonded foam. Furthermore, col. 2, lines 34-45 describes formation of a sandwich structure in which the rebonded foam is the core and the outer layers are preferably polyurethane foam. Other examples of potential outer layers include metal, wood, cork, plastics, tissue and woven or unwoven fabrics, e.g. carpet backing (col. 2, lines 41-43). De Simone '207 does not suggest that the rebond foam can be a carpet backing. On the contrary, De Simone '207 teaches that a woven or unwoven fabric such as a carpet backing fabric can be one of the outer layers attached to the rebonded foam. De Simone '207 is merely directed to a rebonded foam pad or underlayment. Applicants strongly believe that it is improper to infer that the rebonded foam is utilized as a carpet backing based solely on the fact that the disclosure says that the rebonded foam can be bonded to a carpet backing fabric.

As pointed out in previous responses, since De Simone '207 is not directed to carpet tile or even attached cushion broadloom carpet, neither De Simone '207 nor Higgins '857 provide the necessary motivation or suggestion for combination or for substituting the rebonded foam of De Simone '207 for the foam layer of Higgins '857. One skilled in the art would recognize that for successful commercial application, carpet tile requires vastly different performance characteristics from broadloom carpet. As such, one skilled in the tile art would not read the suggestion to bind the rebonded foam of De Simone '207 to carpet backing fabric as a suggestion to use

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the rebonded foam as a foam layer in a carpet tile. Proceeding contrary to accepted wisdom in the art is sufficient to show nonobviousness when the prior art does not have an explicit teaching thereto. In particular, there is no explicit teaching of using rebond foam in a carpet tile. As made clear from the Norton and Kilpatrick declarations, carpet tiles are highly engineered products that must exhibit durability while retaining dimensional stability. The teachings in De Simone '207 make no mention of carpet tile and the evidence of record discredits the proposed extension of De Simone '207 to carpet tile. Thus, the art falls far short of an "explicit teaching" of the present invention. Rather, the accepted wisdom in the art weighs against the proposed modification and is not countered by any explicit teaching in the art. Under these circumstances it is respectfully submitted that the requisite motivation to make the proposed combination and modifications are clearly lacking.

Moreover, copying by others (by at least one competitor in Europe) is an additional indicator of patentability. Presumably, in light of Applicant's products and publications, Interface started using a rebond foam layer in at least their European cushion back carpet tiles in about late 2004.

Conclusion:

For the reasons set forth above, it is respectfully submitted that all claims now stand in condition for allowance. Should any issues remain after consideration of this Amendment and accompanying Remarks, the Examiner is

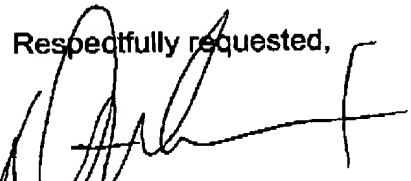
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invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

In the event that there are additional fees associated with the submission of these papers (including extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

Respectfully requested,



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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence, along with a Request for Extension of Time, is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on March 7, 2006.



Daniel R. Alexander (Attorney for Applicant)